

BEFORE THE TENNESSEE REGULATORY AUTHORITY
AT NASHVILLE, TENNESSEE

'99 FEB 26 PM 4 17

In Re: Application of United Cities Gas
Company to Establish an Experimental
Performance-Based Ratemaking Mechanism

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Docket No. 95-01134
EXECUTIVE SECRETARY
now, Docket No. 97-01364

CONSUMER ADVOCATE DIVISION'S TENN. CODE ANN. § 4-5-313 (6) REQUEST

In accordance with Tenn. Code Ann. § 4-5-313 (6) the Tennessee Regulatory Authority notified the parties that it would officially notice staff memoranda or documents relating to proposed affiliate transaction practices for United Cities Gas if it is to operate under the incentive plan. CAD requests that the affiliate transaction practices guidelines be modified as follows:

A). The introductory paragraph should be modified as follows:

The following guidelines present the minimum conditions deemed necessary to ensure that affiliate transactions between United Cities Gas Company (hereafter "United Cities" or "Company") and its affiliate(s) do not result in a competitive advantage over others providing similar services *and does not harm consumers*. The effective date of these guidelines is April 1, 1999, and said guidelines shall remain in effect ~~as long as for~~ United Cities *until superceded by by express order of the Authority is operating under a performance-based ratemaking plan*. We note that these guidelines may fail to anticipate ~~certain~~ every specific methods by which ~~such~~ advantages may be conferred by the Company on its marketing affiliates.

B.) Item No. 9 in the standards of conduct section:

Next to the last line of the paragraph, should be changed from "fully distributed cost to the Company" to "fully distributed cost to each affiliate"

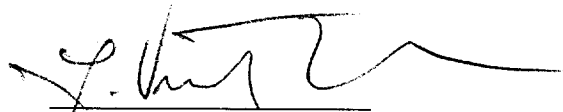
C.) CAD believes that a more complete statement regarding how the corrections and remedies would be undertaken if UCG fails to comply with the guidelines is necessary, alternatively CAD believes it should be afforded an opportunity to contest and rebut the guidelines because they do not provide meaningful standards in relation to remedies or penalties imposed by law.

For example, if UCG and its affiliate profit by \$50,000.00 because it disregards the affiliate transaction guidelines and the penalty provided by law is \$100.00 per incident the standard is not meaningful. Tennessee consumers would be exploited without recourse. Similarly if UCG disregarded guideline no. 9 and gained a \$50,000 profit, is the only recourse a \$100 penalty per transaction? As a result, CAD respectfully believes that it should be provided an opportunity to contest and rebut the effect of this provision and further that the participation by the drafters of the memoranda or data would not cause them to lose their status as advisers.

D.) CAD respectfully believes that the guidelines should not permit vesting of the proceeds by UCG, unless and until UCG complies with the guidelines and UCG's practices with respect to the transactions do not violate the intent of the rule. Moreover, delayed vesting permits the agency to retain jurisdiction without regard to arguments about "retroactive ratemaking." In addition, the Authority must retain the ability to impute fair prices and sharing arising from covered transactions. Such a guideline might ameliorate the concerns CAD expresses in item C above.

We believe vesting should be delayed until some reasonable time after ACA and PGA audits and no proceeding has been initiated, or one year after the required reporting period for gains and losses from the mechanism if the agency has not performed an audit and no proceeding has been initiated with respect to a UCG practice or transaction. If a proceeding is in process UCG would not vest until the agency reaches a decision in the proceeding.

Respectfully submitted,



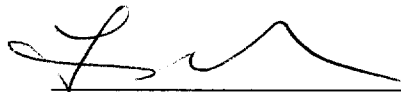
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing comments and requests has been served on the following parties of record by facsimile or hand delivery and by depositing a copy of the same in the United States mail, postage prepaid, addressed to them, in accordance with the following list, this 26th day of February 1999:

Mr. John L. Baugh
United Cities Gas Company
5300 Maryland Way
Brentwood, Tennessee 37027

Mr. Richard Collier
Tennessee Regulatory Authority
460 James Robertson Pkwy.
Nashville, Tennessee 37243-0505



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